

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 131 - HB 493

March 20, 2017

SUMMARY OF BILL: Authorizes any person not otherwise prohibited from possessing a firearm to possess a firearm either openly or concealed regardless of whether the person has a handgun carry permit.

Authorizes any person not otherwise prohibited from possessing a weapon, other than a firearm, to possess a weapon either openly or concealed.

Authorizes felons, except those convicted of a dangerous felony, to possess and carry a firearm. Authorizes felons, except those convicted of a dangerous felony, to purchase a firearm.

Repeals the offense of carrying with the intent to go armed. Repeals the offenses of unlawful possession by someone convicted of a drug felony, a Class D felony, and unlawful possession by someone convicted of a felony, a Class E felony.

Repeals the offenses of (1) possessing a deadly weapon other than a firearm with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony; and (2) possessing any deadly weapon with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony.

Reduces the offense of possession of a firearm by a dangerous felon from a Class C felony to a Class E felony.

Repeals Tenn. Code Ann. § 39-17-1308 which provides defenses to unlawful possession or carrying of a weapon offenses.

Repeals the Class E felonies of possessing or carrying with the intent to go armed any firearm, explosive, explosive weapon, bowie knife, switchblade knife, blackjack, or weapon of like kind (1) in private school buildings or buses; (2) on private school grounds; (3) on any other grounds owned, operated, or used by a private school; and (4) on any other grounds used by a public school.

Repeals Tenn. Code Ann. § 39-17-1311 relative to carrying weapons in public parks, playgrounds, civic centers, and other public recreational buildings and grounds.

Authorizes any person who legally possesses a firearm, firearm ammunition, or firearm accessories to transport and store such items in a motor vehicle. Prohibits an employer from

imposing any adverse employment action or for punishing any employee for lawfully possessing a firearm in his/her motor vehicle.

Declares all federal laws or regulations void that are relative to firearms or the authority of the state to exclusively regulate the entire field of arms within the boundaries of the state.

Authorizes any entity or organization whose membership may be adversely affected by any governmental enactment, action, or omission in violation of Tenn. Code Ann. § 39-17-1314 to sue a local government for actual damages, declaratory relief, injunctive relief, or civil rights violations. If the court issues any injunction or grants any declaratory relief, the court shall also award attorney's fees, costs, and expert witness fees.

Reduces the handgun permit application fee from \$100 to \$50. Repeals provisions requiring \$15 be paid to offset cost of the Automated Fingerprint Identification System (AFIS) and requiring \$15 be paid to local sheriffs to offset cost of background checks.

Repeals provision that limits out-of-state permit holders to carrying only handguns.

Repeals provision that allows a handgun permit to be revoked for the purposes of enforcing child support obligations.

Repeals provision that allows an individual, corporation, business entity, or governmental entity to prohibit the possession of weapons at a meeting conducted by the individual, corporation, business entity, or governmental entity.

Authorizes a person who legally possesses a handgun for self-defense to carry such handgun at any time on a refuge, public hunting area, or wildlife management area. Authorizes a person who legally possesses a handgun for self-defense to carry such handgun at any time on national forest land maintained by the state, regardless of whether such possession is allowed by federal law.

Authorizes a person legally in possession of a handgun for personal defense to carry such handgun while hunting during the archery-only deer season.

ESTIMATED FISCAL IMPACT:

**Decrease State Revenue – \$6,256,100/Handgun Permit Division
\$2,331,500/TBI**

**Decrease State Expenditures – \$6,256,100/Handgun Permit Division
\$1,363,000/TBI
\$3,642,600/Incarceration***

Increase State Expenditures – \$720,000/Recurring/General Fund

Decrease Local Revenue – \$538,000/Sheriffs

Assumptions:

Assumptions Relative to Incarceration Costs

- Under the proposed legislation, possession of a firearm by someone convicted of a dangerous felony will still be an offense, but it will be punished as a Class E felony rather than a Class C felony. Statistics from the Department of Correction (DOC) show a 10-year average of 8.2 admissions per year for possession of a firearm by a felon with a deadly weapon conviction.
- The proposed legislation will result in two admissions per year being punished as a Class E felony rather than a Class C felony.
- The average time served for a Class C felony is 3.51 years. The average time served for a Class E felony is 1.4 years. The proposed legislation will result in eight admissions serving 2.11 fewer years (3.51 years – 1.4 years = 2.11 years or 770.68 days) than current admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The decrease in state incarceration costs will be \$423,874 (8 admissions x 770.68 days x \$68.75).
- The proposed legislation repeals the offenses of unlawful possession by someone convicted of a drug felony, a Class D felony, and unlawful possession by someone convicted of a felony, a Class E felony. The proposed legislation also repeals the offenses of (1) possessing a deadly weapon other than a firearm with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony; and (2) possessing any deadly weapon with the intent to employ it during the commission of, attempted commission of, or escape from a dangerous offense, a Class E felony. These offenses are codified in Tenn. Code Ann. § 39-17-1307.
- Statistics from the DOC show a 10-year average of 82.4 admissions per year for the Class E felonies and 5.9 admissions per year for the Class D felony.
- It is assumed that the proposed legislation will result in a decrease of six Class D felony admissions each year. The average time served for a Class D felony is 2.23 years (814.51 days). The decrease in state incarceration costs is \$335,985 (6 admissions x 814.51 days x \$68.75).
- It is assumed that the proposed legislation will result in a decrease of 82 Class E felony admissions each year. The average time served for a Class E felony is 1.4 years (511.35 days). The decrease in state incarceration costs is \$2,882,736 (82 admissions x 511.35 days x \$68.75).
- The proposed legislation repeals other minor firearm-related felonies and misdemeanors. Statistics from the Administrative Office of the Courts show an average of 198.4 firearm-related misdemeanors under Tenn. Code. Ann. § 39-17-1307 each year. These represent trial court statistics. Fiscal Review Committee staff assumes that one out of every 10 misdemeanor cases is taken to the trial court level. It is assumed that the proposed legislation will result in 1,984 (198.4 x 10) fewer misdemeanor cases each year.

- It is assumed that most of the offenders do not spend time in confinement. It is assumed that the proposed legislation will not significantly decrease any further state or local incarceration costs.
- The total decrease in state incarceration costs is \$3,642,595 (\$423,874 + \$335,985 + \$2,882,736)
- Though the proposed legislation would result in approximately 88 fewer felony cases and 1,984 fewer misdemeanor cases each year, this is less than three felony cases per judicial district and less than 68 misdemeanor cases per judicial district. Therefore, a reduction in the number of judges, assistant district attorneys, or assistant public defenders is not justified.

Assumptions Relative to Handgun Carry Permits

- The proposed legislation authorizes any person not otherwise prohibited from possessing a firearm to possess and carry a firearm, handgun or long gun, either openly or concealed regardless of whether the person has a handgun carry permit.
- Under the proposed legislation, only a person wishing to possess and carry a firearm in another state would need to have a handgun carry permit.
- It is assumed that most Tennesseans do not travel out-of-state with a firearm. It is further assumed that most Tennesseans that do travel out-of-state with a firearm will not wish to carry that firearm on their person when in another state.
- It is therefore assumed that, if this proposed legislation is enacted, 60 percent of new applicants each year will decide not to obtain a handgun carry permit.
- It is further assumed that many existing handgun carry permit holders will choose not to renew their permit. Those continuing to renew after the effective date of the proposed legislation will likely be Tennesseans who believe that maintaining a valid handgun carry permit could serve to mitigate liability should they ever need to use their handgun in public for personal protection, or in the case of business owners, in the protection of their business assets.
- It is therefore assumed that 40 percent of existing permit holders up for renewal each year will not renew.
- Statistics from the Department of Safety (DOS) show that there has been an average of 59,782 new handgun permit applicants each year for the past five years and an average of 72,385 renewals each year for the past five years.
- For purposes of the fiscal note, it is assumed all permits issued will be standard, non-military or law enforcement, permits.
- The fee for a new applicant is \$100 and the fee for a renewal is \$50. From every new permit fee paid, \$15 is allocated to the applicable sheriff's department to cover the cost of a local background check; \$15 is allocated to the Tennessee Bureau of Investigation (TBI) for updating and maintaining the Automated Fingerprint Identification System (AFIS); \$38 is allocated to the TBI to cover the cost of fingerprint vendors, TBI background checks, and Federal Bureau of Investigation fingerprint background checks; the remaining \$32 is retained by the Handgun Permit Division (HPD) of the DOS to specifically fund the administrative expenses of the division. Each handgun permit issued costs \$2.23 to print.
- Currently, the HPD collects \$9,357,450 {[59,782 x \$100] + [(72,385 renewals – 4,800 lifetime upgrades) x \$50]} in application and renewal fees and \$960,000 (4,800 x \$200)

in lifetime permit fees. Under the proposed legislation, Safety will collect \$50 for new applications and for renewals. The proposed legislation does not change the lifetime permit fee.

- It is assumed that 40 percent of the average new applicants, or 23,913 ($59,782 \times 0.4$), will still apply for a handgun permit each year and that 60 percent of renewals, or 43,431 ($72,385 \times 0.6$), will still renew each year. Under the proposed legislation, the HPD will collect \$3,127,200 $\{[23,913 \times \$50] + [(43,431 \text{ renewals} - 4,800 \text{ upgrades}) \times \$50]\}$.
- The proposed legislation will result in a recurring decrease in revenue to the HPD of \$6,230,250 ($\$9,357,450 - \$3,127,200$).
- Under current law, the Tennessee Bureau of Investigation receives \$15 of every application fee and \$38 for a background check and fingerprint check. The \$15 is to maintain the AFIS, which the TBI must report to the Criminal Justice Committee of the House of Representatives and the Senate Judiciary Committee by February 1 of each year. The TBI collects \$896,730 ($59,782 \times \15) each year for AFIS maintenance and \$2,271,716 ($59,782 \times \38) for background checks.
- Under the proposed legislation, the TBI will no longer receive the \$15 for AFIS. It is assumed that \$35 of the new \$50 fee will be paid to TBI for background and fingerprint checks.
- The proposed legislation will result in a recurring decrease in revenue of \$896,730 for AFIS ($59,782 \times \15) and a recurring decrease in revenue to TBI of \$1,434,761 $[(59,782 \times \$38) - (23,913 \times \$35)]$ for background and fingerprint checks. The total decrease in recurring revenue to TBI is \$2,331,491 ($\$896,730 + \$1,434,761$).
- Under current law, the sheriffs receive \$15 for conducting background checks. Sheriffs collect \$896,730 ($59,782 \times \15) each year. Under the proposed legislation, sheriffs are not entitled to the \$15, but it is assumed that the DOS will continue to pay them \$15 for background checks. It is assumed that the Sheriffs will collect \$358,695 ($23,913 \times \15) under the proposed legislation.
- The recurring decrease in revenue to local sheriffs is estimated to be \$538,035 ($\$896,730 - \$358,695$).

Assumptions Relative to New Applicants

- It is assumed that the proposed legislation will result in 40 percent of current new applications ($59,782 \times 0.4 = 23,913$ applicants) being filed with the HPD each year.
- Under current law, each new applicant generates \$70.23 in expenses (\$15 to TBI/AFIS + \$15 to local sheriff for background check + \$38 to TBI for background check and fingerprint check + \$2.23 to print the permit). It is assumed that under the proposed legislation each applicant will generate \$52.23 in expenses (\$15 to local sheriff for background check + \$35 to TBI for background check and fingerprint check + \$2.23 to print the permit).
- Each applicant will require \$18 ($\$70.23 - \52.23) less than current expenditures.
- The recurring decrease in state expenditures to the HPD is estimated to be \$430,434 ($23,913 \times \18 reduction).

Assumptions Relative to Permit Renewals

- It is assumed that the proposed legislation will result in 60 percent of current permit renewals ($72,385 \times 0.6 = 43,431$ renewals) being filed with the HPD each year.

- The proposed legislation will result in fewer renewal permits being printed and will reduce expenditures by \$64,567 ($28,954 \times \2.23 to print the permit).

Assumptions Relative to Handgun Safety Courses

- The proposed legislation removes the requirement that new handgun permit applicants complete a handgun safety course. The DOS reports that it receives approximately \$15,210 per year in safety school certification fees and approximately \$10,610 per year in safety instructor certification fees. The proposed legislation will result in a decrease in revenues of \$25,820 per year ($\$15,210 + \$10,610$) for the HPD.
- The DOS employs five handgun school inspectors and one handgun school inspector supervisor. Each inspector results in recurring expenditures of \$42,365 [$\$30,396$ salary + ($\$30,396 \times 0.0894$) benefits + ($\$30,396 \times .0765$) FICA + \$6,926.76 insurance]. The inspector supervisor results in recurring expenditures of \$50,004 [$\$36,948$ salary + ($\$36,948 \times 0.0894$) benefits + ($\$36,948 \times .0765$) FICA + \$6,926.76 insurance]. The proposed legislation will result in a recurring decrease in expenditures of \$261,829 [$(\$42,365 \times 5) + \$50,004$] for the HPD.

Assumptions Relative to TBI and AFIS

- Under current law, the TBI receives \$15 of the \$100 application fee for as a dedicated revenue source to maintain and update AFIS.
- The proposed legislation deletes the provision requiring \$15 be transmitted to the TBI to offset the cost of AFIS. The proposed legislation will result in a decrease of revenue for the TBI.
- TBI receives \$896,730 ($59,782 \times \15) each year under current law. It is assumed that the TBI will not receive any further funds under the proposed legislation. The proposed legislation will decrease TBI's revenue by \$896,730.
- AFIS costs \$720,000 each year in maintenance.
- The proposed legislation will require recurring appropriations from the General Fund expenditures of \$720,000.
- The TBI will conduct fewer background checks under the proposed legislation. The proposed legislation will result in a decrease in expenditures of \$1,363,022 [$(59,782 \text{ current permits} - 23,913 \text{ permits under proposed legislation}) \times \38].

Assumptions Relative to Administrative Costs of the Handgun Permit Program

- The HPD is funded by dedicated revenue through the handgun permit fee.
- It is assumed that any reduction in revenue to the fund will be met with a corresponding reduction in expenditures.
- The proposed legislation will result in a total reduction in revenue to the HPD of \$6,256,070 ($\$6,230,250 + \$25,820$). The proposed legislation will result in a decrease in expenditures of \$756,830 ($\$430,434 + \$64,567 + \$261,829$). It is assumed that the Handgun Permit Division will reduce its administrative expenditures by \$5,499,240 ($\$6,256,070 - \$756,830$). The division will likely reduce the administrative expenditures through a reduction in the workforce.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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